

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL JOSEPH TYLER,	:	CIVIL ACTION NO. 1:04-CV-2345
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
FRANK GILLIS, et al.,	:	
	:	
Respondents	:	

ORDER

AND NOW, this 1st day of December, 2005, upon consideration of petitioner's motion (Doc. 21), requesting that the stay in the above-captioned action be lifted, and of the previous order of court dated April 29, 2005 Doc. 18), adopting the report of the magistrate judge recommending that proceedings in this case be temporarily stayed pending petitioner's exhaustion of state court remedies, see 28 U.S.C. § 2254(b), (c); Slutzker v. Johnson, 393 F.3d 373, 379 (3d Cir. 2004) ("[I]f there is any likelihood that the state courts would consider the merits of a petitioner's unexhausted claim, the federal courts should dismiss [the] petition and allow [the petitioner] to seek relief in state courts."); see also Rhines v. Weber, 125 S.Ct. 1528, 1533-34 (2005) (stating that courts may stay habeas corpus proceedings while a petitioner exhausts state remedies), and it appearing that petitioner has now exhausted all available state court remedies, (see Docs. 19-201), it is hereby ORDERED that:

1. The temporary stay in the above-captioned action is LIFTED.

2. This case is REMANDED to the magistrate judge for further proceedings. See 28 U.S.C. § 2254.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge